

# ***In the House of Representatives, U. S.,***

*September 28, 1994.*

*Resolved*, That the bill from the Senate (S. 1970) entitled “An Act to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes”, do pass with the following

## **AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.***

2       (a) *SHORT TITLE.*—*This Act may be cited as the*  
3 *“Department of Agriculture Reorganization Act of 1994”.*

4       (b) *TABLE OF CONTENTS.*—*The table of contents for*  
5 *this Act is as follows:*

*Sec. 1. Short title and table of contents.*

*Sec. 2. Definitions.*

### ***TITLE I—GENERAL REORGANIZATION AUTHORITIES***

*Sec. 101. Transfer of Department functions to Secretary of Agriculture.*

*Sec. 102. Reductions in number of Department personnel.*

*Sec. 103. Combination of field offices.*

*Sec. 104. Improvement of information sharing.*

*Sec. 105. Director of External Affairs.*

*Sec. 106. Director for Administration.*

### ***TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES***

*Sec. 201. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.*

*Sec. 202. Agricultural Service Agency.*

*Sec. 203. State, county, and area committees.*

### ***TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT***

*Sec. 301. Under Secretary of Agriculture for Rural Economic and Community Development.*

**TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES**

*Sec. 401. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.*

**TITLE V—NATURAL RESOURCES AND ENVIRONMENT**

*Sec. 501. Under Secretary of Agriculture for Natural Resources and Environment.*

**TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS**

*Sec. 601. Under Secretary of Agriculture for Research, Education, and Economics.*

**TITLE VII—FOOD SAFETY**

*Sec. 701. Under Secretary of Agriculture for Food Safety.*

**TITLE VIII—NATIONAL APPEALS DIVISION**

- Sec. 801. Definitions.*
- Sec. 802. National Appeals Division and Director.*
- Sec. 803. Transfer of functions.*
- Sec. 804. Notice and opportunity for hearing.*
- Sec. 805. Informal hearings.*
- Sec. 806. Right of participants to division hearing.*
- Sec. 807. Division hearings.*
- Sec. 808. Director review of determinations of hearing officers.*
- Sec. 809. Judicial review.*
- Sec. 810. Implementation of final determinations of division.*
- Sec. 811. Conforming amendments relating to National Appeals Division.*
- Sec. 812. Expansion of issues covered by State mediation programs.*

**TITLE IX—MISCELLANEOUS PROVISIONS**

- Sec. 901. Successorship provisions relating to bargaining units and exclusive representatives.*
- Sec. 902. Office of environmental risk assessment.*
- Sec. 903. Fair and equitable treatment of socially disadvantaged producers.*
- Sec. 904. Repeal of superseded provisions.*
- Sec. 905. Conforming amendments.*
- Sec. 906. Proposed conforming amendments.*
- Sec. 907. Purchase of American-made equipment and products.*
- Sec. 908. Conditions on implementation of alteration in level of selenium allowed in animal diets.*

**1 SEC. 2. DEFINITIONS.**

2       *Except where the context requires otherwise, for pur-*  
 3 *poses of this Act:*

4           (1) *DEPARTMENT.*—*The term “Department”*  
 5       *means the Department of Agriculture.*

1           (2) *NATIONAL APPEALS DIVISION.*—The term  
 2           “National Appeals Division” means the National Ap-  
 3           peals Division of the Department established under  
 4           section 802.

5           (3) *SECRETARY.*—The term “Secretary” means  
 6           the Secretary of Agriculture.

7                           ***TITLE I—GENERAL***  
 8           ***REORGANIZATION AUTHORITIES***

9   ***SEC. 101. TRANSFER OF DEPARTMENT FUNCTIONS TO SEC-***  
 10                           ***RETARY OF AGRICULTURE.***

11           (a) *TRANSFER OF FUNCTIONS.*—Except as provided in  
 12           subsection (b), there are hereby transferred to the Secretary  
 13           of Agriculture all functions of all agencies, offices, officers,  
 14           and employees of the Department that are not already vest-  
 15           ed in the Secretary as of the date of the enactment of this  
 16           Act.

17           (b) *EXCEPTIONS.*—Subsection (a) shall not apply to  
 18           the following functions:

19                   (1) *Functions vested by subchapter II of chapter*  
 20                   *5 of title 5, United States Code, in administrative*  
 21                   *law judges employed by the Department.*

22                   (2) *Functions vested by the Inspector General*  
 23                   *Act of 1978 (5 U.S.C. App.) in the Inspector General*  
 24                   *of the Department.*

1           (3) *Functions vested by chapter 9 of title 31,*  
2           *United States Code, in the Chief Financial Officer of*  
3           *the Department.*

4           (4) *Functions vested in the corporations of the*  
5           *Department or the boards of directors and officers of*  
6           *such corporations.*

7           (5) *Functions vested in the Alternative Agricul-*  
8           *tural Research and Commercialization Board by the*  
9           *Alternative Agricultural Research and Commer-*  
10          *cialization Act of 1990 (7 U.S.C. 5901 et seq.).*

11          (6) *Functions vested in the advisory board of the*  
12          *Commodity Credit Corporation established by section*  
13          *9(b) of the Commodity Credit Corporation Charter*  
14          *Act (15 U.S.C. 714g(b)).*

15          (c) *DELEGATION OF AUTHORITY.—*

16          (1) *DELEGATION AUTHORIZED.—Subject to*  
17          *paragraph (2), the Secretary may delegate to any*  
18          *agency, office, officer, or employee of the Department*  
19          *the authority to perform any function transferred to*  
20          *the Secretary under subsection (a) or any other func-*  
21          *tion vested in the Secretary as of the date of the en-*  
22          *actment of this Act.*

23          (2) *EXCEPTION.—The delegation authority pro-*  
24          *vided by paragraph (1) shall be subject to—*

1           (A) sections 105(b)(1), 106(b)(1), 201(b)(1),  
2           202(b)(1), 301(b)(1), 401(b)(1), 501(b)(1),  
3           601(b)(1), 601(c)(2), 701(b)(1), 803, and 904 of  
4           this Act;

5           (B) sections 502 and 503 of the Agricultural  
6           Trade Act of 1978 (7 U.S.C. 5692 and 5693);  
7           and

8           (C) section 8(b)(5) of the Soil Conservation  
9           and Domestic Allotment Act (16 U.S.C.  
10          590h(b)(5)), as amended by section 203(a) of this  
11          Act.

12          (d) *COST-BENEFIT ANALYSIS REQUIRED FOR NAME*  
13          *CHANGE.*—

14               (1) *ANALYSIS REQUIRED.*—Except as provided  
15               in paragraph (2), the Secretary shall conduct a cost-  
16               benefit analysis before changing the name of any  
17               agency, office, division, or other unit of the Depart-  
18               ment to ensure that the benefits to be derived from  
19               changing the name of the agency, office, division, or  
20               other unit outweigh the expense of executing the name  
21               change.

22               (2) *EXCEPTION.*—Paragraph (1) shall not apply  
23               with respect to any name change specifically provided  
24               for in this Act.

1       (e) *PUBLIC COMMENT ON PROPOSED REORGANIZA-*  
 2 *TION.*—*To the extent that the implementation of the author-*  
 3 *ity provided to the Secretary by this Act to reorganize the*  
 4 *Department involves the creation of new agencies or offices*  
 5 *within the Department or the delegation of major functions*  
 6 *or major groups of functions to any agency or office of the*  
 7 *Department (or the officers thereof), the Secretary shall, to*  
 8 *the extent considered practicable by the Secretary—*

9               (1) *give appropriate advance public notice of the*  
 10       *proposed reorganization action or delegation; and*

11              (2) *afford appropriate opportunity for interested*  
 12       *parties to comment on the proposed reorganization*  
 13       *action or delegation.*

14       (f) *INTERAGENCY TRANSFER OF RECORDS, PROPERTY,*  
 15 *PERSONNEL, AND FUNDS.*—

16              (1) *RELATED TRANSFERS.*—*Subject to para-*  
 17 *graph (2), as part of the transfer or delegation of a*  
 18 *function of the Department made or authorized by*  
 19 *this Act, the Secretary may transfer within the De-*  
 20 *partment—*

21                   (A) *any of the records, property, or person-*  
 22       *nel affected by the transfer or delegation of the*  
 23       *function; and*

24                   (B) *unexpended balances (available or to be*  
 25       *made available for use in connection with the*

1           *transferred or delegated function) of appropria-*  
 2           *tions, allocations, or other funds of the Depart-*  
 3           *ment.*

4           (2) *APPLICABLE LAW RELATING TO FUNDS*  
 5           *TRANSFER.—Section 1531 of title 31, United States*  
 6           *Code, shall apply to any transfer of funds under*  
 7           *paragraph (1).*

8   **SEC. 102. REDUCTIONS IN NUMBER OF DEPARTMENT PER-**  
 9           **SONNEL.**

10          (a) *NUMBER OF REDUCTIONS REQUIRED.—The Sec-*  
 11          *retary shall achieve Federal employee reductions of at least*  
 12          *7,500 staff years within the Department by the end of fiscal*  
 13          *year 1999. Reductions in the number of full-time equivalent*  
 14          *positions within the Department achieved under section 5*  
 15          *of the Federal Workforce Restructuring Act of 1994 (Public*  
 16          *Law 103–226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be*  
 17          *counted toward the employee reductions required under this*  
 18          *section.*

19          (b) *TOP-DOWN REDUCTIONS REQUIRED.—In achiev-*  
 20          *ing the employee reductions required in subsection (a), the*  
 21          *Secretary shall ensure that the percentage by which total*  
 22          *employee staff years in headquarters offices is reduced is*  
 23          *at least twice as great as the percentage by which total em-*  
 24          *ployee staff years in field offices is reduced.*

1 **SEC. 103. COMBINATION OF FIELD OFFICES.**

2 (a) *COMBINATION OF OFFICES REQUIRED.*—The Sec-  
3 retary shall combine field offices of agencies within the De-  
4 partment, where practicable and to the extent consistent  
5 with efficiency, effectiveness, and service to farmers, im-  
6 prove service to clients and reduce personnel and duplica-  
7 tive overhead expenses.

8 (b) *JOINT USE OF RESOURCES AND OFFICES RE-*  
9 *QUIRED.*—When two or more agencies share a common field  
10 office, the Secretary shall require the agencies to jointly use  
11 office space, equipment, office supplies, administrative per-  
12 sonnel, and clerical personnel associated with that field  
13 office.

14 **SEC. 104. IMPROVEMENT OF INFORMATION SHARING.**

15 Whenever the Secretary procures or uses computer sys-  
16 tems, as may be provided for in advance in appropriations  
17 Acts, the Secretary shall do so in a manner that enhances  
18 efficiency, productivity, and client services and is consistent  
19 with the goal of promoting computer information sharing  
20 among agencies of the Department.

21 **SEC. 105. DIRECTOR OF EXTERNAL AFFAIRS.**

22 (a) *ESTABLISHMENT.*—There is established in the De-  
23 partment the position of Director of External Affairs of the  
24 Department of Agriculture. The Director of External Affairs  
25 shall be appointed by the President, by and with the advice  
26 and consent of the Senate.



1       (b) *FUNCTIONS OF DIRECTOR.*—

2           (1) *PRINCIPAL FUNCTIONS.*—*The Secretary shall*  
3       *delegate to the Director of External Affairs those func-*  
4       *tions and duties that were under the jurisdiction of*  
5       *the Assistant Secretary of Agriculture for Congres-*  
6       *sional Relations and the Director of Public Affairs of*  
7       *the Department as of the date of the enactment of this*  
8       *Act.*

9           (2) *ADDITIONAL FUNCTIONS.*—*The Director of*  
10      *External Affairs shall perform such other duties as*  
11      *may be required by law or prescribed by the Sec-*  
12      *retary.*

13      (c) *SUCCESSION.*—*Any official who is serving as As-*  
14      *sistant Secretary of Agriculture for Congressional Relations*  
15      *on the date of the enactment of this Act and who was ap-*  
16      *pointed by the President, by and with the advice and con-*  
17      *sent of the Senate—*

18           (1) *shall be considered to be serving in the suc-*  
19      *cessor position established by subsection (a); and*

20           (2) *shall not be required to be reappointed to*  
21      *that position by reason of the enactment of this Act.*

22      (d) *CONFORMING AMENDMENT.*—*Section 5315 of title*  
23      *5, United States Code, is amended by adding at the end*  
24      *the following:*

1           *“Director of External Affairs of the Department*  
2           *of Agriculture.”.*

3   **SEC. 106. DIRECTOR FOR ADMINISTRATION.**

4           (a) *ESTABLISHMENT.*—*There is established in the De-*  
5           *partment the position of Director for Administration of the*  
6           *Department of Agriculture. The Director for Administra-*  
7           *tion shall be appointed by the President, by and with the*  
8           *advice and consent of the Senate.*

9           (b) *FUNCTIONS OF DIRECTOR.*—

10           (1) *PRINCIPAL FUNCTIONS.*—*The Secretary shall*  
11           *delegate to the Director for Administration those func-*  
12           *tions and duties that were under the jurisdiction of*  
13           *the Assistant Secretary for Administration of the De-*  
14           *partment as of the date of the enactment of this Act.*

15           (2) *ADDITIONAL FUNCTIONS.*—*The Director for*  
16           *Administration shall perform such other duties as*  
17           *may be required by law or prescribed by the Sec-*  
18           *retary.*

19           (c) *SUCCESSION.*—*Any official who is serving as As-*  
20           *stant Secretary of Agriculture for Administration on the*  
21           *date of the enactment of this Act and who was appointed*  
22           *by the President, by and with the advice and consent of*  
23           *the Senate—*

24           (1) *shall be considered to be serving in the suc-*  
25           *cessor position established by subsection (a); and*

1           (2) shall not be required to be reappointed to  
2           that position by reason of the enactment of this Act.

3           (d) *CONFORMING AMENDMENT.*—Section 5315 of title  
4   5, United States Code, is amended by adding at the end  
5   the following:

6           “Director for Administration of the Department  
7           of Agriculture.”.

8           ***TITLE II—FARM AND FOREIGN***  
9           ***AGRICULTURAL SERVICES***

10   ***SEC. 201. UNDER SECRETARY OF AGRICULTURE FOR FARM***  
11           ***AND FOREIGN AGRICULTURAL SERVICES.***

12           (a) *ESTABLISHMENT.*—There is established in the De-  
13   partment the position of Under Secretary of Agriculture for  
14   Farm and Foreign Agricultural Services. The Under Sec-  
15   retary shall be appointed by the President, by and with the  
16   advice and consent of the Senate.

17           (b) *FUNCTIONS OF UNDER SECRETARY.*—

18           (1) *PRINCIPAL FUNCTIONS.*—The Secretary shall  
19   delegate to the Under Secretary of Agriculture for  
20   Farm and Foreign Agricultural Services those func-  
21   tions and duties under the jurisdiction of the Depart-  
22   ment that are related to farm and foreign agricul-  
23   tural services.

24           (2) *ADDITIONAL FUNCTIONS.*—The Under Sec-  
25   retary of Agriculture for Farm and Foreign Agricul-

1        *tural Services shall perform such other functions and*  
 2        *duties as may be required by law or prescribed by the*  
 3        *Secretary.*

4        (c) *SUCCESSION.*—Any official who is serving as  
 5        *Under Secretary of Agriculture for International Affairs*  
 6        *and Commodity Programs on the date of the enactment of*  
 7        *this Act and who was appointed by the President, by and*  
 8        *with the advice and consent of the Senate—*

9                (1) *shall be considered to be serving in the suc-*  
 10        *cessor position established by subsection (a); and*

11                (2) *shall not be required to be reappointed to*  
 12        *that position by reason of the enactment of this Act.*

13        (d) *CONFORMING AMENDMENTS.*—

14                (1) *EXISTING POSITION.*—Section 501 of the Ag-  
 15        *ricultural Trade Act of 1978 (7 U.S.C. 5691), relat-*  
 16        *ing to the Under Secretary of Agriculture for Inter-*  
 17        *national Affairs and Commodity Programs, is re-*  
 18        *pealed.*

19                (2) *EXECUTIVE SCHEDULE.*—Section 5314 of  
 20        *title 5, United States Code, is amended by striking*  
 21        *“Under Secretary of Agriculture for International Af-*  
 22        *fairs and Commodity Programs.” and inserting*  
 23        *“Under Secretary of Agriculture for Farm and For-*  
 24        *eign Agricultural Services.”.*

1 **SEC. 202. AGRICULTURAL SERVICE AGENCY.**

2       (a) *ESTABLISHMENT.*—*The Secretary shall establish*  
3 *and maintain an Agricultural Service Agency within the*  
4 *Department.*

5       (b) *FUNCTIONS OF AGRICULTURAL SERVICE AGEN-*  
6 *CY.*—

7           (1) *PRINCIPAL FUNCTIONS.*—*The Secretary shall*  
8 *carry out through the Agricultural Service Agency the*  
9 *following activities that are under the jurisdiction of*  
10 *the Department:*

11               (A) *Agricultural price and income support*  
12 *programs and related programs.*

13               (B) *General supervision of the Federal Crop*  
14 *Insurance Corporation.*

15               (C) *Notwithstanding any other provision of*  
16 *law, agricultural credit programs formerly as-*  
17 *signed by law to the Farmers Home Administra-*  
18 *tion (including farm ownership and operating,*  
19 *emergency, and disaster loan programs) and*  
20 *other lending programs for farmers and others*  
21 *engaged in the production of agricultural com-*  
22 *modities.*

23               (D) *Agricultural conservation cost-share*  
24 *and demonstration programs carried out by the*  
25 *Agricultural Stabilization and Conservation*

1           *Service or the Farmers Home Administration as*  
2           *of the date of the enactment of this Act.*

3           (2) *ADDITIONAL FUNCTIONS.*—*The Secretary*  
4           *may assign to the Agricultural Service Agency such*  
5           *additional functions as the Secretary considers appro-*  
6           *priate in connection with the administration and im-*  
7           *plementation of authorities assigned to the Secretary*  
8           *by law.*

9           (c) *JURISDICTION OVER CONSERVATION PROGRAM AP-*  
10          *PEALS.*—

11           (1) *IN GENERAL.*—*Until such time as an adverse*  
12           *decision described in this paragraph is referred to the*  
13           *National Appeals Division for consideration, the Ag-*  
14           *ricultural Service Agency shall have initial jurisdic-*  
15           *tion over any administrative appeal resulting from*  
16           *an adverse decision made under title XII of the Food*  
17           *Security Act of 1985 (16 U.S.C. 3801 et seq.), includ-*  
18           *ing an adverse decision involving technical deter-*  
19           *minations made by the Soil Conservation Service.*

20           (2) *TREATMENT OF TECHNICAL DETERMINA-*  
21           *TION.*—*With respect to administrative appeals involv-*  
22           *ing a technical determination made by the Soil Con-*  
23           *servation Service, the Agricultural Service Agency, by*  
24           *rule with the concurrence of the Soil Conservation*  
25           *Service, shall establish procedures for obtaining re-*

1     *view by the Soil Conservation Service of the technical*  
 2     *determinations involved. Such rules shall ensure that*  
 3     *technical criteria established by the Soil Conservation*  
 4     *Service shall be used by the Agricultural Service*  
 5     *Agency as the basis for any decisions regarding tech-*  
 6     *nical determinations.*

7           (3) *REINSTATEMENT OF PROGRAM BENEFITS.—*  
 8     *Rules issued to carry out this subsection shall provide*  
 9     *for the prompt reinstatement of benefits to a producer*  
 10    *who is determined in an administrative appeal to*  
 11    *meet the requirements of title XII of the Food Secu-*  
 12    *rity Act of 1985 applicable to the producer.*

13          (4) *DEFINITION.—For purposes of this sub-*  
 14    *section, the term “Soil Conservation Service” includes*  
 15    *any successor agency to the Soil Conservation Service.*

16    (d) *USE OF FEDERAL AND NON-FEDERAL EMPLOY-*  
 17    *EES.—*

18          (1) *USE AUTHORIZED.—In the implementation*  
 19    *of programs and activities assigned to the Agricul-*  
 20    *tural Service Agency, the Secretary may use inter-*  
 21    *changeably in local offices of the agency both Federal*  
 22    *employees of the Department and non-Federal em-*  
 23    *ployees of county and area committees established*  
 24    *under section 8(b)(5) of the Soil Conservation and*  
 25    *Domestic Allotment Act (16 U.S.C. 590h(b)(5)).*

1           (2) *EXCEPTION.*—Notwithstanding paragraph  
 2           (1), no personnel action (as defined in section  
 3           2302(a)(2)(A) of title 5, United States Code) may be  
 4           taken with respect to a Federal employee unless such  
 5           action is taken by another Federal employee.

6           (e) *CONFORMING AMENDMENTS.*—

7           (1) *CROP INSURANCE.*—The Federal Crop Insur-  
 8           ance Act (7 U.S.C.1501 et seq.) is amended—

9                   (A) in section 505(a) (7 U.S.C. 1505(a)), by  
 10           striking “the Under Secretary or Assistant Sec-  
 11           retary of Agriculture responsible for the farm  
 12           credit programs of the Department of Agri-  
 13           culture,” and inserting “one additional Under  
 14           Secretary of Agriculture as designated by the  
 15           Secretary,”; and

16                   (B) in section 507(d) (7 U.S.C. 1507(d)), by  
 17           striking “, except” and all that follows through  
 18           “agency”.

19           (2) *FARM AND RURAL DEVELOPMENT.*—Section  
 20           331(a) of the Consolidated Farm and Rural Develop-  
 21           ment Act (7 U.S.C. 1981(a)) is amended by striking  
 22           “assets to the Farmers Home Administration” and all  
 23           that follows through the period and inserting “assets  
 24           to such officers or agencies of the Department of Agri-  
 25           culture as the Secretary considers appropriate.”.



1 **SEC. 203. STATE, COUNTY, AND AREA COMMITTEES.**

2 (a) *AMENDMENT TO THE SOIL CONSERVATION AND*  
 3 *DOMESTIC ALLOTMENT ACT.*—Section 8(b) of the Soil Con-  
 4 *servation and Domestic Allotment Act (16 U.S.C. 590h(b))*  
 5 *is amended—*

6 (1) *by inserting “(1)” after “(b)”;*

7 (2) *by designating the second through eighth un-*  
 8 *designated paragraphs as paragraphs (2) through (8),*  
 9 *respectively; and*

10 (3) *by striking paragraph (5) (as so designated)*  
 11 *and inserting the following new paragraph:*

12 “(5) *STATE, COUNTY, AND AREA COMMITTEES.*—

13 “(A) *APPOINTMENT OF STATE COMMITTEES.*—  
 14 *The Secretary shall appoint in each State a State*  
 15 *committee composed of not fewer than 3 nor more*  
 16 *than 5 members who are fairly representative of the*  
 17 *farmers in the State. The members of a State commit-*  
 18 *tee shall serve at the pleasure of the Secretary for such*  
 19 *term as the Secretary may establish.*

20 “(B) *ESTABLISHMENT OF COUNTY OR AREA COM-*  
 21 *MITTEES.*—(i) *In each county or area in which ac-*  
 22 *tivities are carried out under this section, the Sec-*  
 23 *retary shall establish a county or area committee. In*  
 24 *the case of a county committee in existence on the*  
 25 *date of the enactment of the Department of Agri-*  
 26 *culture Reorganization Act of 1994, the Secretary*

1     *may not terminate the country committee, alter the*  
2     *boundaries of the area covered by the committee, or*  
3     *consolidate the committee with other county commit-*  
4     *tees, without the consent of a majority of the produc-*  
5     *ers in the area covered by the committee, as deter-*  
6     *mined in a referendum conducted by the Secretary.*

7             “(ii) *Any such committee shall consist of not*  
8     *fewer than 3 nor more than 5 members who are fairly*  
9     *representative of the farmers in the county or area*  
10    *and who shall be elected by the farmers in such coun-*  
11    *ty or area under such procedures as the Secretary*  
12    *may prescribe.*

13            “(iii) *Only farmers within a local administra-*  
14    *tive area who are producers who participate or co-*  
15    *operate in programs administered within their area*  
16    *shall be eligible for nomination and election to the*  
17    *local committee for that area.*

18            “(iv) *The Secretary shall solicit and accept*  
19    *nominations from organizations representing the in-*  
20    *terests of socially disadvantaged groups (as defined in*  
21    *section 355(e)(1) of the Consolidated Farm and Rural*  
22    *Development Act (7 U.S.C. 2003(e)(1)).*

23            “(v) *Members of each county or area committee*  
24    *shall serve for terms not to exceed 3 years.*

1           “(C) *USE OF COMMITTEES.*—The Secretary shall  
2       use the services of such committees in carrying out  
3       programs under this section and the agricultural  
4       credit programs under the Consolidated Farm and  
5       Rural Development Act (7 U.S.C. 1921 et seq.) and  
6       in considering administrative appeals under the ju-  
7       risdiction of the Agricultural Service Agency, as pro-  
8       vided by section 202(c) of the Department of Agri-  
9       culture Reorganization Act of 1994. In addition, to  
10      the extent the Secretary determines appropriate, the  
11      Secretary may use the services of such committees in  
12      carrying out programs under other authorities ad-  
13      ministered by the Secretary .

14          “(D) *REGULATIONS.*—The Secretary shall issue  
15      such regulations as the Secretary considers necessary  
16      relating to the selection and exercise of the functions  
17      of the respective committees, and to the administra-  
18      tion through such committees of the programs de-  
19      scribed in subparagraph (C). Pursuant to such regu-  
20      lations, each county and area committee shall select  
21      an executive director for the area or county. Such se-  
22      lection shall be made in the same manner as provided  
23      for the selection of the county executive director under  
24      section 7.21(b)(2) of title 7, Code of Federal Regula-  
25      tions, as in effect on January 1, 1994. Regulations

governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

“(i) Soil-depleting practices.

“(ii) Soil-building practices.

“(E) MANDATORY DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

“(i) insofar as practicable, protect the interests of tenants and sharecroppers;

“(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

“(iii) in every practicable manner, protect the interests of small producers; and

“(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

“(F) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

1           “(G) *LIMITATIONS.*—In carrying out this sec-  
 2           tion, the Secretary shall not have the authority to ac-  
 3           quire any land or any right or interest in land.”.

4           (b) *CONFORMING AMENDMENTS.*—The Consolidated  
 5           Farm and Rural Development Act (7 U.S.C. 1921 et seq.)  
 6           is amended—

7                 (1) by striking section 332 (7 U.S.C. 1982); and

8                 (2) in section 333 (7 U.S.C. 1983)—

9                         (A) by striking paragraph (2); and

10                        (B) redesignating paragraphs (3), (4), and

11                        (5) as paragraphs (2), (3), and (4), respectively.

12           ***TITLE III—RURAL ECONOMIC***  
 13           ***AND COMMUNITY DEVELOP-***  
 14           ***MENT***

15           ***SEC. 301. UNDER SECRETARY OF AGRICULTURE FOR RURAL***  
 16           ***ECONOMIC AND COMMUNITY DEVELOPMENT.***

17           (a) *ESTABLISHMENT.*—There is established in the De-  
 18           partment the position of Under Secretary of Agriculture for  
 19           Rural Economic and Community Development. The Under  
 20           Secretary shall be appointed by the President, by and with  
 21           the advice and consent of the Senate.

22           (b) *FUNCTIONS OF UNDER SECRETARY.*—

23                 (1) *PRINCIPAL FUNCTIONS.*—The Secretary shall  
 24                 delegate to the Under Secretary of Agriculture for  
 25                 Rural Economic and Community Development those

1        *functions and duties under the jurisdiction of the De-*  
 2        *partment that are related to rural economic and com-*  
 3        *munity development.*

4            (2) *ADDITIONAL FUNCTIONS.*—*The Under Sec-*  
 5        *retary of Agriculture for Rural Economic and Com-*  
 6        *munity Development shall perform such other func-*  
 7        *tions and duties as may be required by law or pre-*  
 8        *scribed by the Secretary.*

9            (c) *SUCCESSION.*—*Any official who is serving as*  
 10       *Under Secretary of Agriculture for Small Community and*  
 11       *Rural Development on the date of the enactment of this Act*  
 12       *and who was appointed by the President, by and with the*  
 13       *advice and consent of the Senate—*

14            (1) *shall be considered to be serving in the suc-*  
 15        *cessor position established by subsection (a); and*

16            (2) *shall not be required to be reappointed to*  
 17        *that position by reason of the enactment of this Act.*

18            (d) *LOAN APPROVAL AUTHORITY.*—*Approval author-*  
 19        *ity for loans and loan guarantees in the electric and tele-*  
 20        *phone loan and loan guarantee programs authorized by the*  
 21        *Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.)*  
 22        *shall not be transferred to, or conditioned upon review of,*  
 23        *a State director or other employee whose primary duty is*  
 24        *not the review and approval of such loans or the provision*  
 25        *of assistance to such borrowers.*

1       (e) *CONFORMING AMENDMENTS.*—

2               (1) *EXISTING POSITION.*—Section 3 of the Rural  
3       Development Policy Act of 1980 (7 U.S.C. 2211b) is  
4       amended by striking subsection (a).

5               (2) *EXECUTIVE SCHEDULE.*—Section 5314 of  
6       title 5, United States Code, is amended by striking  
7       “Under Secretary of Agriculture for Small Commu-  
8       nity and Rural Development.” and inserting “Under  
9       Secretary of Agriculture for Rural Economic and  
10      Community Development.”.

11      (f) *AMENDMENTS TO THE RURAL ELECTRIFICATION*  
12      *ACT OF 1936.*—The Rural Electrification Act of 1936 (7  
13      U.S.C. 901 et seq.) is amended—

14              (1) in section 1 (7 U.S.C. 901), by striking the  
15      first sentence;

16              (2) in section 2(a) (7 U.S.C. 902(a)), by striking  
17      “Administrator” and inserting “Secretary of Agri-  
18      culture”;

19              (3) in section 3(a) (7 U.S.C. 903(a))—

20                  (A) by striking “Administrator, upon the  
21      request and approval of the Secretary of Agri-  
22      culture,” and inserting “Secretary”; and

23                  (B) by striking “Administrator appointed  
24      pursuant to the provisions of this Act or from  
25      the Administrator of the Rural Electrification

1       Administration established by Executive Order  
2       Numbered 7037” and inserting “Secretary”;

3       (4) in section 8 (7 U.S.C. 908)—

4               (A) by striking “Administrator authorized  
5       to be appointed by this Act” and inserting “Sec-  
6       retary”; and

7               (B) by striking “Rural Electrification Ad-  
8       ministration created by this Act” and inserting  
9       “Secretary”;

10       (5) by striking section 11A (7 U.S.C. 911a);

11       (6) in section 13 (7 U.S.C. 913), by inserting be-  
12       fore the period the following: “; the term ‘Secretary’  
13       shall be deemed to mean the Secretary of Agri-  
14       culture”;

15       (7) in sections 206(b)(2), 306A(b), 311, and  
16       405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and  
17       945(b)(1)(A)), by striking “Rural Electrification Ad-  
18       ministration” each place it appears and inserting  
19       “Secretary”;

20       (8) in sections 305(c)(2)(C)(ii)(II) and 306E(d)  
21       (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by strik-  
22       ing “ADMINISTRATOR” both places it appears and in-  
23       serting “SECRETARY”;

24       (9) in section 403(b) (7 U.S.C. 943(b)), by strik-  
25       ing “Rural Electrification Administration or of any



1        *other agency of the Department of Agriculture,” and*  
 2        *inserting “Secretary,”;*

3            (10) in section 404 (7 U.S.C. 944), by striking  
 4        *“the Administrator of the Rural Electrification Ad-*  
 5        *ministration” and inserting “the Secretary shall des-*  
 6        *ignate an official of the Department of Agriculture*  
 7        *who”;*

8            (11) in sections 406(c) and 410 (7 U.S.C. 946(c)  
 9        *and 950), by striking “Administrator of the Rural*  
 10        *Electrification Administration” each place it appears*  
 11        *and inserting “Secretary”;*

12            (12) in the heading of section 501 (7 U.S.C.  
 13        *950aa), by striking “**OF REA ADMINISTRATOR**”;*  
 14        *and*

15            (13) except as otherwise provided in this sub-  
 16        *section, by striking “Administrator” each place it ap-*  
 17        *pears in such Act and inserting “Secretary”.*

18        (g) MISCELLANEOUS AMENDMENTS RELATED TO  
 19        *RURAL ELECTRIFICATION ADMINISTRATION.—(1) Section*  
 20        *236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a)*  
 21        *is amended by striking “Rural Electrification Administra-*  
 22        *tion” and inserting “Secretary under the Rural Electrifica-*  
 23        *tion Act of 1936”.*

24            (2) Section 505 of the Department of Agriculture Or-  
 25        *ganic Act of 1944 (7 U.S.C. 915) is amended—*

1           (A) by striking “Rural Electrification Adminis-  
 2           tration” and inserting “Secretary of Agriculture”;  
 3           and

4           (B) by striking “its” and inserting “the Sec-  
 5           retary’s”.

6           (3) Section 401 of the Rural Electrification Act of  
 7           1938 (7 U.S.C. 903 note, 52 Stat. 818) is amended in the  
 8           second paragraph by striking “Administrator of the Rural  
 9           Electrification Administration” and inserting “Secretary  
 10          of Agriculture”.

11          (4) Chapter 1 of subtitle D of title XXIII of the Food,  
 12          Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C.  
 13          950aaa et seq.), relating to Distance Learning and Medical  
 14          Link Programs, is amended—

15               (A) in section 2333—

16                   (i) by striking paragraph (1); and

17                   (ii) by redesignating paragraphs (2)  
 18                   through (11) as paragraphs (1) through (10), re-  
 19                   spectively;

20               (B) in section 2334(h)(2), by striking “section  
 21               2333(3)(F)” and inserting “section 2333(2)(F)”; and

22               (C) by striking “Administrator” each place it  
 23               appears and inserting “Secretary”.

**TITLE IV—FOOD, NUTRITION,  
AND CONSUMER SERVICES**

**SEC. 401. UNDER SECRETARY OF AGRICULTURE FOR FOOD,  
NUTRITION, AND CONSUMER SERVICES.**

(a) *ESTABLISHMENT.*—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) *FUNCTIONS OF UNDER SECRETARY.*—

(1) *PRINCIPAL FUNCTIONS.*—The Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions and duties under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 701(b)(1)).

(2) *ADDITIONAL FUNCTIONS.*—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) *SUCCESSION.*—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who

1 *was appointed by the President, by and with the advice*  
 2 *and consent of the Senate—*

3 *(1) shall be considered to be serving in the suc-*  
 4 *cessor position established by subsection (a); and*

5 *(2) shall not be required to be reappointed to*  
 6 *that position by reason of the enactment of this Act.*

7 *(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5,*  
 8 *United States Code, is amended by inserting after the item*  
 9 *relating to the Under Secretary of Agriculture for Farm*  
 10 *and Foreign Agricultural Services (as added by section*  
 11 *201(d)(2)) the following:*

12 *“Under Secretary of Agriculture for Food, Nutri-*  
 13 *tion, and Consumer Services.”.*

14 ***TITLE V—NATURAL RESOURCES***  
 15 ***AND ENVIRONMENT***

16 ***SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR NATU-***  
 17 ***RAL RESOURCES AND ENVIRONMENT.***

18 *(a) ESTABLISHMENT.—There is established in the De-*  
 19 *partment the position of Under Secretary of Agriculture for*  
 20 *Natural Resources and Environment. The Under Secretary*  
 21 *shall be appointed by the President, by and with the advice*  
 22 *and consent of the Senate.*

23 *(b) FUNCTIONS OF UNDER SECRETARY.—*

24 *(1) PRINCIPAL FUNCTIONS.—The Secretary shall*  
 25 *delegate to the Under Secretary of Agriculture for*

1     *Natural Resources and Environment those functions*  
 2     *and duties under the jurisdiction of the Department*  
 3     *that are related to natural resources and the environ-*  
 4     *ment (except to the extent those functions and duties*  
 5     *are delegated to the Agricultural Service Agency*  
 6     *under section 202).*

7             (2) *ADDITIONAL FUNCTIONS.*—*The Under Sec-*  
 8     *retary of Agriculture for Natural Resources and Envi-*  
 9     *ronment shall perform such other functions and duties*  
 10    *as may be required by law or prescribed by the Sec-*  
 11    *retary.*

12            (c) *SUCCESSION.*—*Any official who is serving as As-*  
 13    *stant Secretary of Agriculture for Natural Resources and*  
 14    *Environment on the date of the enactment of this Act and*  
 15    *who was appointed by the President, by and with the advice*  
 16    *and consent of the Senate—*

17                (1) *shall be considered to be serving in the suc-*  
 18    *cessor position established by subsection (a); and*

19                (2) *shall not be required to be reappointed to*  
 20    *that position by reason of the enactment of this Act.*

21            (d) *EXECUTIVE SCHEDULE.*—*Section 5314 of title 5,*  
 22    *United States Code, is amended by inserting after the item*  
 23    *relating to the Under Secretary of Agriculture for Food, Nu-*  
 24    *trition, and Consumer Services (as added by section 401(d))*  
 25    *the following:*

1           *“Under Secretary of Agriculture for Natural Re-*  
 2           *sources and Environment.”.*

3           *(e) CONFORMING AMENDMENTS.—*

4           *(1) SOIL CONSERVATION SERVICE.—Section 5 of*  
 5           *the Soil Conservation and Domestic Allotment Act*  
 6           *(16 U.S.C. 590e) is repealed.*

7           *(2) SOIL AND WATER RESOURCES CONSERVA-*  
 8           *TION.—The Soil and Water Resources Conservation*  
 9           *Act of 1977 (16 U.S.C. 2001) is amended—*

10           *(A) in section 2(2) (16 U.S.C. 2001(2))—*

11                   *(i) by striking “created the Soil Con-*  
 12                   *servations Service”; and*

13                   *(ii) by striking “Department of Agri-*  
 14                   *culture which” and inserting “, has ensured*  
 15                   *that the Department of Agriculture”;*

16           *(B) in section 3(2) (16 U.S.C. 2002(2)), by*  
 17           *striking “through the Soil Conservation Service”;*  
 18           *and*

19           *(C) in section 6(a) (16 U.S.C. 2005(a)), by*  
 20           *striking “Soil Conservation Service” and insert-*  
 21           *ing “Secretary”.*

1                   ***TITLE VI—RESEARCH,***  
2                   ***EDUCATION, AND ECONOMICS***

3   ***SEC. 601. UNDER SECRETARY OF AGRICULTURE FOR RE-***  
4                   ***SEARCH, EDUCATION, AND ECONOMICS.***

5           (a) *ESTABLISHMENT.*—*There is established in the De-*  
6   *partment the position of Under Secretary of Agriculture for*  
7   *Research, Education, and Economics. The Under Secretary*  
8   *shall be appointed by the President, by and with the advice*  
9   *and consent of the Senate.*

10          (b) *FUNCTIONS OF UNDER SECRETARY.*—

11               (1) *PRINCIPAL FUNCTIONS.*—*The Secretary shall*  
12   *delegate to the Under Secretary of Agriculture for Re-*  
13   *search, Education, and Economics those functions*  
14   *and duties under the jurisdiction of the Department*  
15   *that are related to research, education, and economics.*

16               (2) *ADDITIONAL FUNCTIONS.*—*The Under Sec-*  
17   *retary of Agriculture for Research, Education, and*  
18   *Economics shall perform such other functions and du-*  
19   *ties as may be required by law or prescribed by the*  
20   *Secretary.*

21          (c) *COOPERATIVE STATE RESEARCH AND EDUCATION*  
22   *SERVICE.*—

23               (1) *ESTABLISHMENT.*—*The Secretary shall estab-*  
24   *lish and maintain within the Department a Coopera-*  
25   *tive State Research and Education Service.*

1           (2) *DUTIES.*—*The Secretary shall delegate to the*  
 2           *Cooperative State Research and Education Service*  
 3           *functions related to cooperative State research pro-*  
 4           *grams and cooperative extension and education pro-*  
 5           *grams that are under the jurisdiction of the Depart-*  
 6           *ment.*

7           (3) *OFFICER-IN-CHARGE.*—*The officer in charge*  
 8           *of the Cooperative State Research and Education*  
 9           *Service shall report directly to the Under Secretary of*  
 10          *Agriculture for Research, Education, and Economics.*

11          (d) *EXECUTIVE SCHEDULE.*—*Section 5314 of title 5,*  
 12          *United States Code, is amended by inserting after the item*  
 13          *relating to the Under Secretary of Agriculture for Natural*  
 14          *Resources and Environment (as added by section 501(d))*  
 15          *the following:*

16                 *“Under Secretary of Agriculture for Research,*  
 17                 *Education, and Economics.”.*

## 18                 ***TITLE VII—FOOD SAFETY***

### 19         ***SEC. 701. UNDER SECRETARY OF AGRICULTURE FOR FOOD*** 20                 ***SAFETY.***

21           (a) *ESTABLISHMENT.*—*There is established in the De-*  
 22           *partment of Agriculture the position of Under Secretary of*  
 23           *Agriculture for Food Safety. The Under Secretary shall be*  
 24           *appointed by the President, by and with the advice and*  
 25           *consent of the Senate, from among individuals with special-*



1 ized training or significant experience in food safety or  
2 public health programs.

3 (b) *FUNCTIONS OF UNDER SECRETARY.*—

4 (1) *PRINCIPAL FUNCTIONS.*—The Secretary shall  
5 delegate to the Under Secretary of Agriculture for  
6 Food Safety those functions and duties under the ju-  
7 risdiction of the Department that are related to food  
8 safety.

9 (2) *ADDITIONAL FUNCTIONS.*—The Under Sec-  
10 retary of Agriculture for Food Safety shall perform  
11 such other functions and duties as may be required by  
12 law or prescribed by the Secretary.

13 (c) *EXECUTIVE SCHEDULE.*—Section 5314 of title 5,  
14 United States Code, is amended by inserting after the item  
15 relating to the Under Secretary of Agriculture for Research,  
16 Education, and Economics (as added by section 601(d)) the  
17 following:

18 “Under Secretary of Agriculture for Food  
19 Safety.”

## 20 **TITLE VIII—NATIONAL APPEALS** 21 **DIVISION**

### 22 **SEC. 801. DEFINITIONS.**

23 For purposes of this title:

24 (1) *ADVERSE DECISION.*—The term “adverse de-  
25 cision” means an administrative decision made by an

1     *officer, employee, or committee of an agency that is*  
 2     *adverse to a participant. The term includes a denial*  
 3     *of equitable relief by an agency or the failure of an*  
 4     *agency to issue a decision or otherwise act on the re-*  
 5     *quest or right of the participant. The term does not*  
 6     *include a decision over which the Board of Contract*  
 7     *Appeals has jurisdiction.*

8             (2) *AGENCY.—The term “agency” means any*  
 9     *agency of the Department designated by the Secretary*  
 10    *or a successor agency of the Department, except that*  
 11    *the term shall include the following (and any succes-*  
 12    *sor to the following):*

13                 (A) *The Agricultural Service Agency.*

14                 (B) *The Commodity Credit Corporation,*  
 15     *with respect to domestic programs.*

16                 (C) *The Farmers Home Administration.*

17                 (D) *The Federal Crop Insurance Corpora-*  
 18     *tion.*

19                 (E) *The Rural Development Administra-*  
 20     *tion.*

21                 (F) *The Soil Conservation Service.*

22                 (G) *A State, county, or area committee es-*  
 23     *tablished under section 8(b)(5) of the Soil Con-*  
 24     *servation and Domestic Allotment Act (16 U.S.C.*  
 25     *590h(b)(5)).*

1           (3) *APPELLANT*.—The term “appellant” means a  
2           participant who appeals an adverse decision in ac-  
3           cordance with this title.

4           (4) *CASE RECORD*.—The term “case record”  
5           means all the materials maintained by the Secretary  
6           related to an adverse decision.

7           (5) *DIRECTOR*.—The term “Director” means the  
8           Director of the Division.

9           (6) *DIVISION*.—The term “Division” means the  
10          National Appeals Division established by this title.

11          (7) *HEARING OFFICER*.—The term “hearing offi-  
12          cer” means an individual employed by the Division  
13          who hears and determines appeals of adverse decisions  
14          by any agency.

15          (8) *PARTICIPANT*.—The term “participant”  
16          means any individual, partnership, corporation, asso-  
17          ciation, cooperative, or other entity whose application  
18          for, or right to participate in or receive, payments or  
19          loans in accordance with any of the programs admin-  
20          istered by an agency is affected by an adverse deci-  
21          sion of an agency.

22   **SEC. 802. NATIONAL APPEALS DIVISION AND DIRECTOR.**

23          (a) *ESTABLISHMENT OF DIVISION*.—The Secretary  
24          shall establish and maintain an independent National Ap-

1 *peals Division within the Department to carry out this*  
2 *title.*

3 *(b) DIRECTOR.—*

4 *(1) APPOINTMENT.—The Division shall be head-*  
5 *ed by a Director, appointed by the Secretary from*  
6 *among persons who have substantial experience in*  
7 *practicing administrative law. In considering appli-*  
8 *cants for the position of Director, the Secretary shall*  
9 *consider persons currently employed outside Govern-*  
10 *ment as well as Government employees.*

11 *(2) TERM AND REMOVAL.—The Director shall*  
12 *serve for a 6-year term of office, and shall be eligible*  
13 *for reappointment. The Director shall not be subject*  
14 *to removal during the term of office, except for cause*  
15 *established in accordance with law.*

16 *(3) POSITION CLASSIFICATION.—The position of*  
17 *the Director may not be a position in the excepted*  
18 *service or filled by a noncareer appointee.*

19 *(c) DIRECTION, CONTROL, AND SUPPORT.—The Direc-*  
20 *tor shall be free from the direction and control of any person*  
21 *other than the Secretary. The Division shall not receive ad-*  
22 *ministrative support (except on a reimbursable basis) from*  
23 *any agency other than the Office of the Secretary. The Sec-*  
24 *retary may not delegate to any other officer or employee*

1 *of the Department, other than the Director, the authority*  
 2 *of the Secretary with respect to the Division.*

3 (d) *DETERMINATION OF APPEALABILITY OF AGENCY*  
 4 *DECISIONS.—If an officer, employee, or committee of an*  
 5 *agency determines that a decision is not appealable and*  
 6 *a participant appeals the decision to the Director, the Di-*  
 7 *rector shall determine whether the decision is adverse to the*  
 8 *individual participant and thus appealable or is a matter*  
 9 *of general applicability and thus not subject to appeal. The*  
 10 *determination of the Director as to whether a decision is*  
 11 *appealable shall be administratively final.*

12 (e) *DIVISION PERSONNEL.—The Director shall appoint*  
 13 *such hearing officers and other employees as are necessary*  
 14 *for the administration of the Division. A hearing officer or*  
 15 *other employee of the Division shall have no duties other*  
 16 *than those that are necessary to carry out this title.*

17 **SEC. 803. TRANSFER OF FUNCTIONS.**

18 *There are transferred to the Division all functions ex-*  
 19 *ercised and all administrative appeals pending before the*  
 20 *effective date of this title (including all related functions*  
 21 *of any officer or employee) of or relating to—*

22 (1) *the National Appeals Division established by*  
 23 *section 426(c) of the Agricultural Act of 1949 (7*  
 24 *U.S.C. 1433e(c)) (as in effect on the day before the*  
 25 *date of the enactment of this Act);*

1           (2) the National Appeals Division established by  
 2           subsections (d) through (g) of section 333B of the Con-  
 3           solidated Farm and Rural Development Act (7 U.S.C.  
 4           1983b) (as in effect on the day before the date of the  
 5           enactment of this Act);

6           (3) appeals of decisions made by the Federal  
 7           Crop Insurance Corporation; and

8           (4) appeals of decisions made by the Soil Con-  
 9           servation Service.

10   **SEC. 804. NOTICE AND OPPORTUNITY FOR HEARING.**

11       Not later than 10 working days after an adverse deci-  
 12       sion is made that affects the participant, the Secretary shall  
 13       provide the participant with the written notice of such ad-  
 14       verse decision and the rights available to the participant  
 15       under this title or other law for the review of such adverse  
 16       decision.

17   **SEC. 805. INFORMAL HEARINGS.**

18       If an officer, employee, or committee of an agency  
 19       makes an adverse decision, the agency shall hold, at the re-  
 20       quest of the participant, an informal hearing on the deci-  
 21       sion. With respect to programs carried out through the Ag-  
 22       ricultural Service Agency, the Secretary shall maintain the  
 23       informal appeals process applicable to such programs, as  
 24       in effect on the date of the enactment of the title. If a medi-  
 25       ation program is available under title V of the Agricultural

1 *Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of*  
 2 *the informal hearing process, the participant shall be of-*  
 3 *fered the right to choose such mediation.*

4 ***SEC. 806. RIGHT OF PARTICIPANTS TO DIVISION HEARING.***

5 *(a) APPEAL TO DIVISION FOR HEARING.—Subject to*  
 6 *subsection (b), a participant shall have the right to appeal*  
 7 *an adverse decision to the Division for an evidentiary hear-*  
 8 *ing by a hearing officer consistent with section 807.*

9 *(b) TIME FOR APPEAL.—To be entitled to a hearing*  
 10 *under section 807, a participant shall request the hearing*  
 11 *not later than 30 days after the date on which the partici-*  
 12 *pant first received notice of the adverse decision.*

13 ***SEC. 807. DIVISION HEARINGS.***

14 *(a) GENERAL POWERS OF DIRECTOR AND HEARING*  
 15 *OFFICERS.—*

16 *(1) ACCESS TO CASE RECORD.—The Director*  
 17 *and hearing officer shall have access to the case record*  
 18 *of any adverse decision appealed to the Division for*  
 19 *a hearing.*

20 *(2) ADMINISTRATIVE PROCEDURES.—The Direc-*  
 21 *tor and hearing officer shall have the authority to re-*  
 22 *quire the attendance of witnesses, and the production*  
 23 *of evidence, by subpoena and to administer oaths and*  
 24 *affirmations. Except to the extent required for the dis-*  
 25 *position of ex parte matters as authorized by law—*

1           (A) *an interested person outside the Divi-*  
2           *sion shall not make or knowingly cause to be*  
3           *made to the Director or a hearing officer who is*  
4           *or may reasonably be expected to be involved in*  
5           *the evidentiary hearing or review of an adverse*  
6           *decision, an ex parte communication (as defined*  
7           *in section 551(14) of title 5, United States Code)*  
8           *relevant to the merits of the proceeding;*

9           (B) *the Director and such hearing officer*  
10          *shall not make or knowingly cause to be made to*  
11          *any interested person outside the Division an ex*  
12          *parte communication relevant to the merits of*  
13          *the proceeding.*

14          (b) *TIME FOR HEARING.*—*Upon a timely request for*  
15          *a hearing under section 806(b), an appellant shall have the*  
16          *right to have a hearing by the Division on the adverse deci-*  
17          *sion within 45 days after the date of the receipt of the re-*  
18          *quest for the hearing.*

19          (c) *LOCATION AND ELEMENTS OF HEARING.*—

20               (1) *LOCATION.*—*A hearing on an adverse deci-*  
21               *sion shall be held in the State of residence of the ap-*  
22               *pellant or at a location that is otherwise convenient*  
23               *to the appellant and the Division.*

24               (2) *EVIDENTIARY HEARING.*—*The evidentiary*  
25               *hearing before a hearing officer shall be in person,*



1        *unless the appellant agrees to a hearing by telephone*  
2        *or by a review of the case record. The hearing officer*  
3        *shall not be bound by previous findings of fact by the*  
4        *agency in making a determination.*

5            (3) *INFORMATION AT HEARING.*—*The hearing of-*  
6        *ficer shall consider information presented at the hear-*  
7        *ing without regard to whether the evidence was known*  
8        *to the agency officer, employee, or committee making*  
9        *the adverse decision at the time the adverse decision*  
10       *was made. The hearing officer shall leave the record*  
11       *open after the hearing for a reasonable period of time*  
12       *to allow the submission of information by the appel-*  
13       *lant or the agency after the hearing to the extent nec-*  
14       *essary to respond to new facts, information, argu-*  
15       *ments, or evidence presented or raised by the agency*  
16       *or appellant.*

17           (4) *BURDEN OF PROOF.*—*The appellant shall*  
18       *bear the burden of proving that the adverse decision*  
19       *of the agency was erroneous.*

20           (d) *DETERMINATION NOTICE.*—*The hearing officer*  
21       *shall issue a notice of the determination on the appeal not*  
22       *later than 30 days after a hearing or after receipt of the*  
23       *request of the appellant to waive a hearing, except that the*  
24       *Director may establish an earlier or later deadline. If the*  
25       *determination is not appealed to the Director for review*

1 *under section 808, the notice provided by the hearing officer*  
 2 *shall be considered to be a notice of final determination.*

3 *(e) EFFECTIVE DATE.—The final determination shall*  
 4 *be effective as of the date of filing of an application, the*  
 5 *date of the transaction or event in question, or the date of*  
 6 *the original adverse decision, whichever is applicable.*

7 **SEC. 808. DIRECTOR REVIEW OF DETERMINATIONS OF**  
 8 **HEARING OFFICERS.**

9 *(a) REQUESTS FOR DIRECTOR REVIEW.—*

10 *(1) TIME FOR REQUEST BY APPELLANT.—Not*  
 11 *later than 30 days after the date on which an appel-*  
 12 *lant receives the determination of a hearing officer*  
 13 *under section 807, the appellant shall submit a writ-*  
 14 *ten request to the Director for review of the deter-*  
 15 *mination in order to be entitled to a review by the*  
 16 *Director of the determination.*

17 *(2) TIME FOR REQUEST BY AGENCY HEAD.—Not*  
 18 *later 15 business days after the date on which an*  
 19 *agency receives the determination of a hearing officer*  
 20 *under section 807, the head of the agency may make*  
 21 *a written request that the Director review the deter-*  
 22 *mination.*

23 *(b) DETERMINATION OF DIRECTOR.—The Director*  
 24 *shall conduct a review of the determination of the hearing*  
 25 *officer using the case record, the record from the evidentiary*

1 *hearing under section 807, the request for review, and such*  
 2 *other arguments or information as may be accepted by the*  
 3 *Director. Based on such review, the Director shall issue a*  
 4 *final determination notice that upholds, reverses, or modi-*  
 5 *fies the determination of the hearing officer. However, if*  
 6 *the Director determines that the hearing record is inad-*  
 7 *equately, the Director may remand all or a portion of the*  
 8 *determination for further proceedings to complete the hear-*  
 9 *ing record or, at the option of the Director, to hold a new*  
 10 *hearing. The Director shall complete the review and either*  
 11 *issue a final determination or remand the determination*  
 12 *not later than—*

13           (1) *10 business days after receipt of the request*  
 14           *for review, in the case of a request by the head of an*  
 15           *agency for review; or*

16           (2) *30 business days after receipt of the request*  
 17           *for review, in the case of a request by an appellant*  
 18           *for review.*

19           (c) *EQUITABLE RELIEF.*—*Subject to regulations issued*  
 20 *by the Secretary, the Director shall have the authority to*  
 21 *grant equitable relief under this section in the same manner*  
 22 *and to the same extent as such authority is provided to the*  
 23 *Secretary under section 326 of the Food and Agriculture*  
 24 *Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstand-*  
 25 *ing the administrative finality of a final determination of*

1 *an appeal by the Division, the Secretary shall have the au-*  
 2 *thority to grant equitable or other types of relief to the ap-*  
 3 *pellant after a final determination is issued by the Divi-*  
 4 *sion.*

5 *(d) EFFECTIVE DATE.—A final determination issued*  
 6 *by the Director shall be effective as of the date of filing of*  
 7 *an application, the date of the transaction or event in ques-*  
 8 *tion, or the date of the original adverse decision, whichever*  
 9 *is applicable.*

10 **SEC. 809. JUDICIAL REVIEW.**

11 *A final determination of the Division shall be*  
 12 *reviewable and enforceable by any United States district*  
 13 *court of competent jurisdiction in accordance with chapter*  
 14 *7 of title 5, United States Code.*

15 **SEC. 810. IMPLEMENTATION OF FINAL DETERMINATIONS**  
 16 **OF DIVISION.**

17 *On the return of a case to an agency pursuant to the*  
 18 *final determination of the Division, the head of the agency*  
 19 *shall implement the final determination not later than 30*  
 20 *days after the effective date of the notice of the final deter-*  
 21 *mination.*

22 **SEC. 811. CONFORMING AMENDMENTS RELATING TO NA-**  
 23 **TIONAL APPEALS DIVISION.**

24 *(a) DECISIONS OF STATE, COUNTY, AND AREA COM-*  
 25 *MITTEES.—*

1           (1) *APPLICATION OF SUBSECTION.*—*This sub-*  
 2           *section shall apply only with respect to functions of*  
 3           *the Agricultural Service Agency or the Commodity*  
 4           *Credit Corporation that are under the jurisdiction of*  
 5           *a State, county, or area committee established under*  
 6           *section 8(b)(5) of the Soil Conservation and Domestic*  
 7           *Allotment Act (16 U.S.C. 590h(b)(5)) or an employee*  
 8           *of such a committee.*

9           (2) *FINALITY.*—*Each decision of a State, county,*  
 10          *or area committee (or an employee of such a commit-*  
 11          *tee) covered by paragraph (1) that is made in good*  
 12          *faith in the absence of misrepresentation, false state-*  
 13          *ment, fraud, or willful misconduct shall be final not*  
 14          *later than 90 days after the date of filing of the appli-*  
 15          *cation for benefits, unless the decision is—*

16                 (A) *appealed under this title; or*

17                 (B) *modified by the Administrator of the*  
 18                 *Agricultural Service Agency or the Executive*  
 19                 *Vice President of the Commodity Credit Cor-*  
 20                 *poration.*

21          (3) *RECOVERY OF AMOUNTS.*—*If the decision of*  
 22          *the State, county, or area committee has become final*  
 23          *under paragraph (2), no action may be taken by the*  
 24          *Agricultural Service Agency, the Commodity Credit*  
 25          *Corporation, or a State, county, or area committee to*

1        *recover amounts found to have been disbursed as a re-*  
 2        *sult of a decision in error unless the participant had*  
 3        *reason to believe that the decision was erroneous.*

4        *(b) AGRICULTURAL STABILIZATION AND CONSERVA-*  
 5        *TION SERVICE.—Section 426 of the Agricultural Act of 1949*  
 6        *(7 U.S.C. 1433e) is repealed.*

7        *(c) FARMERS HOME ADMINISTRATION.—Section 333B*  
 8        *of the Consolidated Farm and Rural Development Act (7*  
 9        *U.S.C. 1983b) is repealed.*

10        *(d) FEDERAL CROP INSURANCE CORPORATION.—The*  
 11        *last sentence of section 508(f) of the Federal Crop Insurance*  
 12        *Act (7 U.S.C. 1508(f)) is amended by inserting before the*  
 13        *period at the end the following: “or within 1 year after the*  
 14        *claimant receives a final determination notice from an ad-*  
 15        *ministrative appeal made in accordance with title VIII of*  
 16        *the Department of Agriculture Reorganization Act of 1994,*  
 17        *whichever is later”.*

18        **SEC. 812. EXPANSION OF ISSUES COVERED BY STATE MEDI-**  
 19        **ATION PROGRAMS.**

20        *(a) EXPANSION OF MEDIATION PROGRAMS.—Section*  
 21        *501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101)*  
 22        *is amended—*

23                *(1) in subsection (a), by striking “an agricul-*  
 24                *tural loan mediation program” and inserting “a me-*  
 25                *diation program”;*

1           (2) in subsection (b), by striking “agricultural  
2     loan”; and

3           (3) by striking subsection (c) and inserting the  
4     following new subsection:

5     “(c) *REQUIREMENTS OF STATE MEDIATION PRO-*  
6     *GRAMS.*—

7           “(1) *ISSUES COVERED.*—To be certified as a  
8     qualifying State, the mediation program of the State  
9     must provide mediation services for the persons de-  
10    scribed in paragraph (2) who are involved in agricul-  
11    tural loans or agricultural loans and one or more of  
12    the following issues under the jurisdiction of the De-  
13    partment of Agriculture:

14           “(A) Wetlands determinations.

15           “(B) Compliance with farm programs, in-  
16    cluding conservation programs.

17           “(C) Agricultural credit.

18           “(D) Rural water loan programs.

19           “(E) Grazing on National Forest System  
20    lands.

21           “(F) Pesticides.

22           “(G) Such other issues as the Secretary con-  
23    siders appropriate.

24           “(2) *PERSONS ELIGIBLE FOR MEDIATION.*—The  
25    persons referred to in paragraph (1) are producers,

1     *their creditors (if applicable), and other persons di-*  
 2     *rectly affected by actions of the Department of Agri-*  
 3     *culture.*

4             “(3) *CERTIFICATION CONDITIONS.—The Sec-*  
 5     *retary shall certify a State as a qualifying State with*  
 6     *respect to the issues proposed to be covered by the me-*  
 7     *diation program of the State if the mediation pro-*  
 8     *gram—*

9             “(A) *provides for mediation services that, if*  
 10     *decisions are reached, result in mediated, mutu-*  
 11     *ally agreeable decisions between the parties to the*  
 12     *mediation;*

13            “(B) *is authorized or administered by an*  
 14     *agency of the State government or by the Gov-*  
 15     *ernor of the State;*

16            “(C) *provides for the training of mediators;*

17            “(D) *provides that the mediation sessions*  
 18     *shall be confidential;*

19            “(E) *ensures, in the case of agricultural*  
 20     *loans, that all lenders and borrowers of agricul-*  
 21     *tural loans receive adequate notification of the*  
 22     *mediation program; and*

23            “(F) *ensures, in the case of other issues cov-*  
 24     *ered by the mediation program, that persons di-*  
 25     *rectly affected by actions of the Department of*



1           *Agriculture receive adequate notification of the*  
2           *mediation program.”.*

3           *(b) PARTICIPATION OF DEPARTMENT.—Section 503 of*  
4           *such Act (7 U.S.C. 5103) is amended—*

5                 *(1) by striking “agricultural loan” each place it*  
6           *appears;*

7                 *(2) in the matter preceding subparagraph (A) of*  
8           *subsection (a)(1)—*

9                     *(A) by inserting “or agency” after “pro-*  
10           *gram”; and*

11                    *(B) by striking “that makes, guarantees, or*  
12           *insures agricultural loans”;*

13                 *(3) in subsection (a)(1)(A)—*

14                     *(A) by inserting “or agency” after “such*  
15           *program”; and*

16                    *(B) by inserting “certified under section*  
17           *501” after “mediation program”;*

18                 *(4) in subsection (a)(1)(B)—*

19                     *(A) by striking “, effective beginning on the*  
20           *date of the enactment of this Act,”; and*

21                    *(B) by inserting “certified under section*  
22           *501” after “mediation programs”; and*

23                 *(5) in subsection (a)(1)(C)—*

24                     *(A) in clause (i), by striking “described in”*  
25           *and inserting “certified under”; and*

1                   (B) in clause (ii), by inserting “if applica-  
2                   ble,” before “present”.

3           (c) *REGULATIONS.*—Section 504 of such Act (7 U.S.C.  
4 5104) is amended—

5                   (1) by striking “Within 150 days after the date  
6                   of the enactment of this Act, the” and inserting  
7                   “The”; and

8                   (2) by adding at the end the following new sen-  
9                   tence: “The regulations prescribed by the Secretary  
10                  shall require qualifying States to adequately train  
11                  mediators to address all of the issues covered by the  
12                  mediation program of the State.”.

13          (d) *REPORT.*—Section 505 of such Act (7 U.S.C. 5105)  
14 is amended by striking “1990” and inserting “1998”.

15          (e) *AUTHORIZATION OF APPROPRIATIONS.*—Section  
16 506 of such Act (7 U.S.C. 5106) is amended by striking  
17 “1995” and inserting “2000”.

18          (f) *CONFORMING AMENDMENTS.*—

19                   (1) *REFERENCES TO AGRICULTURAL LOANS.*—  
20 Subtitle A of title V of such Act is amended—

21                           (A) in sections 502 and 505(1) (7 U.S.C.  
22                           5102, 5105(1)), by striking “agricultural loan”  
23                           each place it appears; and

1           (B) in section 505(3) (7 U.S.C. 5105(3)), by  
 2           striking “an agricultural loan mediation” and  
 3           inserting “a mediation”.

4           (2) *WAIVER OF FARM CREDIT SYSTEM MEDI-*  
 5           *ATION RIGHTS BY BORROWERS.*—Section 4.14E of the  
 6           *Farm Credit Act of 1971 (12 U.S.C. 2202e)* is amend-  
 7           ed by striking “agricultural loan”.

8           (3) *WAIVER OF FMHA MEDIATION RIGHTS BY*  
 9           *BORROWERS.*—Section 358 of the *Consolidated Farm*  
 10          *and Rural Development Act (7 U.S.C. 2006)* is  
 11          amended by striking “agricultural loan”.

## 12           ***TITLE IX—MISCELLANEOUS*** 13           ***PROVISIONS***

### 14   ***SEC. 901. SUCCESSORSHIP PROVISIONS RELATING TO BAR-*** 15           ***GAINING UNITS AND EXCLUSIVE REPRESENT-*** 16           ***ATIVES.***

17          (a) *VOLUNTARY AGREEMENT.*—

18           (1) *IN GENERAL.*—If the exercise of the Sec-  
 19          retary’s authority under this Act results in changes to  
 20          an existing bargaining unit that has been certified  
 21          under chapter 71 of title 5, United States Code, the  
 22          affected parties shall attempt to reach a voluntary  
 23          agreement on a new bargaining unit and an exclusive  
 24          representative for such unit.

1           (2) *CRITERIA.*—*In carrying out the requirements*  
 2           *of this subsection, the affected parties shall use cri-*  
 3           *teria set forth in—*

4                   (A) *sections 7103(a)(4), 7111(e), 7111(f)(1),*  
 5                   *and 7120 of title 5, United States Code, relating*  
 6                   *to determining an exclusive representative; and*

7                   (B) *section 7112 of title 5, United States*  
 8                   *Code (disregarding subsections (b)(5) and (d)*  
 9                   *thereof), relating to determining appropriate*  
 10                  *units.*

11          (b) *EFFECT OF AN AGREEMENT.*—

12               (1) *IN GENERAL.*—*If the affected parties reach*  
 13               *agreement on the appropriate unit and the exclusive*  
 14               *representative for such unit under subsection (a), the*  
 15               *Federal Labor Relations Authority shall certify the*  
 16               *terms of such agreement, subject to paragraph (2)(A).*  
 17               *Nothing in this subsection shall be considered to re-*  
 18               *quire the holding of any hearing or election as a con-*  
 19               *dition for certification.*

20               (2) *RESTRICTIONS.*—

21                   (A) *CONDITIONS REQUIRING NONCER-*  
 22                   *TIFICATION.*—*The Federal Labor Relations Au-*  
 23                   *thority may not certify the terms of an agree-*  
 24                   *ment under paragraph (1) if—*

1           (i) it determines that any of the cri-  
 2           teria referred to in subsection (a)(2) (dis-  
 3           regarding section 7112(a) of title 5, United  
 4           States Code) have not been met; or

5           (ii) after the Secretary's exercise of au-  
 6           thority and before certification under this  
 7           section, a valid election under section  
 8           7111(b) of title 5, United States Code, is  
 9           held covering any employees who would be  
 10          included in the unit proposed for certifi-  
 11          cation.

12          (B) TEMPORARY WAIVER OF PROVISION  
 13          THAT WOULD BAR AN ELECTION AFTER A COL-  
 14          LECTIVE BARGAINING AGREEMENT IS  
 15          REACHED.—Nothing in section 7111(f)(3) of title  
 16          5, United States Code, shall prevent the holding  
 17          of an election under section 7111(b) of such title  
 18          that covers employees within a unit certified  
 19          under paragraph (1), or giving effect to the re-  
 20          sults of such an election (including a decision  
 21          not to be represented by any labor organization),  
 22          if the election is held before the end of the 12-  
 23          month period beginning on the date such unit is  
 24          so certified.

1           (C) *CLARIFICATION.*—*The certification of a*  
 2           *unit under paragraph (1) shall not, for purposes*  
 3           *of the last sentence of section 7111(b) of title 5,*  
 4           *United States Code, or section 7111(f)(4) of such*  
 5           *title, be treated as if it had occurred pursuant to*  
 6           *an election.*

7           (3) *DELEGATION.*—

8           (A) *IN GENERAL.*—*The Federal Labor Rela-*  
 9           *tions Authority may delegate to any regional di-*  
 10          *rector (as referred to in section 7105(e) of title*  
 11          *5, United States Code) its authority under the*  
 12          *preceding provisions of this subsection.*

13          (B) *REVIEW.*—*Any action taken by a re-*  
 14          *gional director under subparagraph (A) shall be*  
 15          *subject to review under the provisions of section*  
 16          *7105(f) of title 5, United States Code, in the*  
 17          *same manner as if such action had been taken*  
 18          *under section 7105(e) of such title, except that in*  
 19          *the case of a decision not to certify, such review*  
 20          *shall be required if application therefor is filed*  
 21          *by an affected party within the time specified in*  
 22          *such provisions.*

23          (c) *DEFINITION.*—*For purposes of this section, the*  
 24          *term “affected party” means—*

1           (1) with respect to an exercise of authority by  
 2       the Secretary under this Act, any labor organization  
 3       affected thereby; and

4           (2) the Department of Agriculture.

5   **SEC. 902. OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.**

6       (a) *OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.*—  
 7       The Secretary shall establish in the Department an Office  
 8       of Environmental Risk Assessment (in this section referred  
 9       to as the “Office”), which shall be independent of other of-  
 10      fices and agencies of the Department, but shall have the au-  
 11      thority to advise such offices and agencies regarding the en-  
 12      vironmental risks addressed by Department regulations and  
 13      the implementation and compliance costs associated with  
 14      such regulations. The Office shall be under the direction of  
 15      a Director appointed by the Secretary.

16      (b) *STRATEGY TO ANALYZE RISKS AND BENEFITS.*—  
 17      The Director of the Office shall develop a strategy for per-  
 18      forming, to the greatest extent practicable and consistent  
 19      with the provisions of this section and other provisions of  
 20      the law applicable to the Department, risk/benefit analyses  
 21      in connection with the regulations described in subsection  
 22      (c) that are performed consistently and employ state-of-the-  
 23      art scientific techniques that are practicable with the re-  
 24      sources available. The implementation of the strategy shall  
 25      be subject to the approval of the Secretary.

1       (c) *REVIEW AND CERTIFICATION OF DEPARTMENT*  
2 *REGULATIONS.*—*In connection with each proposed major*  
3 *regulation relating to public health, public safety, or the*  
4 *environment that is issued by the Department after the date*  
5 *on which the Secretary approves of the risk/benefit analysis*  
6 *strategy under subsection (b), the Director of the Office shall*  
7 *publish in the Federal Register—*

8           (1) *an estimate, with as much specificity as*  
9 *practicable, of—*

10               (A) *the risk to the health and safety of indi-*  
11 *viduals that is addressed by the regulation, in-*  
12 *cluding the effect of the risk on human health or*  
13 *the environment;*

14               (B) *the costs associated with the implemen-*  
15 *tation of, and compliance with, the regulation;*  
16 *and*

17               (C) *a comparative analysis of that risk rel-*  
18 *ative to other risks to which the public is ex-*  
19 *posed; and*

20           (2) *subject to subsection (d), a certification by*  
21 *the Director that—*

22               (A) *the estimate under paragraph (1)(B)*  
23 *and the analysis under paragraph (1)(C) are*  
24 *based on a scientific evaluation of the risk re-*



1           *ferred to in paragraph (1)(A) and are supported*  
2           *by the best available scientific data;*

3           *(B) the regulation will substantially ad-*  
4           *vance the purpose of protecting the public health*  
5           *and safety or the environment against the risk*  
6           *referred to in paragraph (1)(A); and*

7           *(C) the regulation will produce benefits to*  
8           *public health and safety or the environment that*  
9           *will justify the costs incurred by local, State,*  
10          *and Federal Government and other public and*  
11          *private entities as a result of the implementation*  
12          *of, and compliance with, the regulation, as esti-*  
13          *mated in paragraph (1)(B).*

14          *(d) REPORT TO CONGRESS OF LACK OF CERTIFI-*  
15          *CATION.—If the Director of the Office cannot make the cer-*  
16          *tification required under subsection (c)(2) for a regulation,*  
17          *the Director shall submit to Congress a report containing*  
18          *a statement of the reasons why the certification cannot be*  
19          *made. The statement shall be included in the final regula-*  
20          *tion.*

21          *(e) EFFECT ON OTHER LAWS; JUDICIAL REVIEW.—*  
22          *This section, and any certification made under subsection*  
23          *(c), shall not be construed to amend, modify, or alter any*  
24          *law and shall not be subject to judicial review. This section*

1 *shall not be construed to grant a cause of action to any*  
 2 *person.*

3 **SEC. 903. FAIR AND EQUITABLE TREATMENT OF SOCIALLY**  
 4 **DISADVANTAGED PRODUCERS.**

5 (a) *FAIR CROP ACREAGE BASES AND FARM PROGRAM*  
 6 *PAYMENT YIELDS.*—*If the Secretary of Agriculture deter-*  
 7 *mines that crop acreage bases or farm program payment*  
 8 *yields established for farms owned or operated by socially*  
 9 *disadvantaged producers are not established in accordance*  
 10 *with title V of the Agricultural Act of 1949 (7 U.S.C. 1461*  
 11 *et seq.), the Secretary shall adjust the bases and yields to*  
 12 *conform to the requirements of such title and make available*  
 13 *any appropriate commodity program benefits.*

14 (b) *FAIR APPLICATION OF CONSOLIDATED FARM AND*  
 15 *RURAL DEVELOPMENT ACT.*—*If the Secretary of Agri-*  
 16 *culture determines that application of the Consolidated*  
 17 *Farm and Rural Development Act (7 U.S.C. 1921 et seq.)*  
 18 *with respect to socially disadvantaged producers is not con-*  
 19 *sistent with the requirements of such Act, the Secretary*  
 20 *shall make such changes in the administration of such Act*  
 21 *as the Secretary considers necessary to provide for the fair*  
 22 *and equitable treatment of socially disadvantaged producers*  
 23 *under such Act.*

24 (c) *REPORT ON TREATMENT OF SOCIALLY DISADVAN-*  
 25 *TAGED PRODUCERS.*—

1           (1) *REPORT REQUIRED.*—The Comptroller Gen-  
 2           eral of the United States shall prepare a report to de-  
 3           termine—

4                   (A) *whether socially disadvantaged produc-*  
 5                   *ers are underrepresented on State, county, or*  
 6                   *local committees established under section 8(b) of*  
 7                   *the Soil Conservation and Domestic Allotment*  
 8                   *Act (16 U.S.C. 590h(b)) or local review commit-*  
 9                   *tees established under section 363 of the Agricul-*  
 10                  *tural Adjustment Act of 1938 (7 U.S.C. 1363)*  
 11                  *because of racial, ethnic, or gender prejudice;*  
 12                  *and*

13                  (B) *if such underrepresentation exists,*  
 14                  *whether it inhibits or interferes with the partici-*  
 15                  *pation of socially disadvantaged producers in*  
 16                  *programs of the Department of Agriculture.*

17           (2) *SUBMISSION OF REPORT.*—Not later than  
 18           February 1, 1995, the Comptroller General shall sub-  
 19           mit the report required by this subsection to the Com-  
 20           mittee on Agriculture of the House of Representatives  
 21           and the Committee on Agriculture, Nutrition, and  
 22           Forestry of the Senate.

23           (d) *DEFINITION.*—For purposes of this section, the  
 24           term “socially disadvantaged producer” means a producer  
 25           who is a member of a group whose members have been sub-

1 *jected to racial, ethnic, or gender prejudice because of their*  
 2 *identity as members of a group without regard to their in-*  
 3 *dividual qualities.*

4 ***SEC. 904. REPEAL OF SUPERSEDED PROVISIONS.***

5 *(a) IN GENERAL.—The following provisions of law are*  
 6 *repealed:*

7 *(1) Section 2 of Reorganization Plan No. 2 of*  
 8 *1953 (5 U.S.C. App; 7 U.S.C. 2201 note).*

9 *(2) Section 2 of the Act entitled “An Act to en-*  
 10 *large the powers and duties of the Department of Ag-*  
 11 *riculture and to create an Executive Department to*  
 12 *be known as the Department of Agriculture.”, ap-*  
 13 *proved February 9, 1889 (7 U.S.C. 2212).*

14 *(3) The first paragraph designated “OFFICE OF*  
 15 *THE SECRETARY:” under the heading “DEPART-*  
 16 *MENT OF AGRICULTURE” of the Act entitled “An*  
 17 *Act making appropriations for the Department of Ag-*  
 18 *riculture for the fiscal year ending June thirtieth,*  
 19 *nineteen hundred and seven.”, approved June 30,*  
 20 *1906 (34 Stat. 670; 7 U.S.C. 2212).*

21 *(4) Section 604(a) of the Rural Development Act*  
 22 *of 1972 (7 U.S.C. 2212a).*

23 *(5) Section 2 of Public Law 94–561 (7 U.S.C.*  
 24 *2212b).*

1           (6) *Section 8(a) of Public Law 97–325 (7 U.S.C.*  
2           *2212c).*

3           (7) *Section 1413(d) of the National Agricultural*  
4           *Research, Extension, and Teaching Policy Act of 1977*  
5           *(7 U.S.C. 3128(d)).*

6           (8) *Section 306(a)(15)(C) of the Consolidated*  
7           *Farm and Rural Development Act (7 U.S.C.*  
8           *1926(a)(15)(C)).*

9           (9) *Section 2322(d)(2) of the Food, Agriculture,*  
10          *Conservation, and Trade Act of 1990 (7 U.S.C. 1926–*  
11          *1(d)(2)).*

12          (10) *Section 364 of the Consolidated Farm and*  
13          *Rural Development Act (7 U.S.C. 2006f).*

14          (b) *TERMINATION OF AUTHORITY FOR ASSISTANT SEC-*  
15          *RETARIES.—Section 5315 of title 5, United States Code, is*  
16          *amended by striking “Assistant Secretaries of Agriculture*  
17          *(7).”.*

18          (c) *TERMINATION OF OTHER EXECUTIVE SCHEDULE*  
19          *POSITIONS.—Section 5316 of title 5, United States Code,*  
20          *is amended—*

21               (1) *by striking “Administrator, Agricultural*  
22               *Marketing Service, Department of Agriculture.”;*

23               (2) *by striking “Administrator, Agricultural Re-*  
24               *search Service, Department of Agriculture.”;*

1           (3) by striking “Administrator, Agricultural  
2           Stabilization and Conservation Service, Department  
3           of Agriculture.”;

4           (4) by striking “Administrator, Farmers Home  
5           Administration.”;

6           (5) by striking “Administrator, Foreign Agricul-  
7           tural Service, Department of Agriculture.”;

8           (6) by striking “Administrator, Rural Elec-  
9           trification Administration, Department of Agri-  
10          culture.”;

11          (7) by striking “Administrator, Soil Conserva-  
12          tion Service, Department of Agriculture.”;

13          (8) by striking “Chief Forester of the Forest  
14          Service, Department of Agriculture.”;

15          (9) by striking “Director of Science and Edu-  
16          cation, Department of Agriculture.”;

17          (10) by striking “Administrator, Animal and  
18          Plant Health Inspection Service, Department of Agri-  
19          culture.”; and

20          (11) by striking “Administrator, Federal Grain  
21          Inspection Service, Department of Agriculture.”.

22   **SEC. 905. CONFORMING AMENDMENTS.**

23          (a) UNITED STATES GRAIN STANDARDS ACT.—The  
24          United States Grain Standards Act (7 U.S.C. 71 et seq.)  
25          is amended—

1           (1) *in section 3 (7 U.S.C. 75)—*

2                 (A) *by inserting “and” at the end of sub-*  
3                 *section (y);*

4                 (B) *by striking subsections (z) and (aa);*  
5                 *and*

6                 (C) *by redesignating subsection (bb) as sub-*  
7                 *section (z);*

8           (2) *by striking section 3A (7 U.S.C. 75a);*

9           (3) *in section 5(b) (7 U.S.C. 77(b)), by striking*  
10           *“Service employees” and inserting “employees of the*  
11           *Secretary”;*

12           (4) *in sections 7(j)(2) and 7A(l)(2) (7 U.S.C.*  
13           *79(j)(2) and 79a(l)(2)), by striking “supervision by*  
14           *Service personnel of its field office personnel” both*  
15           *places it appears and inserting “supervision by the*  
16           *Secretary of the Secretary’s field office personnel”;*

17           (5) *in section 12(c) (7 U.S.C. 87a(c)), by strik-*  
18           *ing “or Administrator”;*

19           (6) *in section 12(d) (7 U.S.C. 87a(d)), by strik-*  
20           *ing “or the Administrator”;*

21           (7) *except as otherwise provided in this sub-*  
22           *section, by striking “Administrator” each place it ap-*  
23           *pears and inserting “Secretary”; and*

1           (8) *except as otherwise provided in this sub-*  
 2           *section, by striking “Service” each place it appears*  
 3           *and inserting “Secretary”.*

4           (b) *PACKERS AND STOCKYARDS ACT, 1921.—Section*  
 5           *407 of the Packers and Stockyards Act, 1921 (7 U.S.C.*  
 6           *228), is amended—*

7           (1) *by striking subsection (b);*

8           (2) *by redesignating subsections (c), (d), (e), and*  
 9           *(f), as subsections (b), (c), (d), and (e), respectively;*  
 10          *and*

11          (3) *in subsection (e) (as so redesignated), by*  
 12          *striking “subsection (e)” and inserting “subsection*  
 13          *(d)”.*

14   **SEC. 906. PROPOSED CONFORMING AMENDMENTS.**

15          *Not later than 180 days after the date of the enactment*  
 16          *of this Act, the Secretary shall submit to Congress rec-*  
 17          *ommended legislation containing additional technical and*  
 18          *conforming amendments to Federal laws that are required*  
 19          *as a result of the enactment of this Act.*

20   **SEC. 907. PURCHASE OF AMERICAN-MADE EQUIPMENT AND**  
 21           **PRODUCTS.**

22          (a) *SENSE OF CONGRESS.—It is the sense of the Con-*  
 23          *gress that, to the greatest extent practicable, all equipment*  
 24          *and products purchased using funds made available pursu-*  
 25          *ant to this Act should be American-made.*



1       (b) *NOTICE REQUIREMENT.*—In providing financial  
 2   assistance to, or entering into any contract with, any entity  
 3   using funds made available pursuant to this Act, the Sec-  
 4   retary, to the greatest extent practicable, shall provide to  
 5   such entity a notice describing the statement made in sub-  
 6   section (a) by the Congress.

7   **SEC. 908. CONDITIONS ON IMPLEMENTATION OF ALTER-**  
 8                           **ATION IN LEVEL OF SELENIUM ALLOWED IN**  
 9                           **ANIMAL DIETS.**

10       (a) *CONDITIONS.*—The Food and Drug Administration  
 11   shall not implement or enforce the final rule described in  
 12   subsection (b) to alter the level of selenium allowed to be  
 13   used as a supplement in animal diets unless the Commis-  
 14   sioner of the Food and Drug Administration makes a deter-  
 15   mination that—

16               (1) *selenium additives are not essential, at levels*  
 17       *authorized in the absence of such final rule, to main-*  
 18       *tain animal nutrition and protect animal health;*

19               (2) *selenium at such levels is not safe to the ani-*  
 20       *mals consuming the additive;*

21               (3) *selenium at such levels is not safe to individ-*  
 22       *uals consuming edible portions of animals that re-*  
 23       *ceive the additive;*

1           (4) *selenium at such levels does not achieve its*  
2           *intended effect of promoting normal growth and re-*  
3           *production of livestock and poultry; and*

4           (5) *the manufacture and use of selenium at such*  
5           *levels cannot reasonably be controlled by adherence to*  
6           *current good manufacturing practice requirements.*

7           (b) *FINAL RULE DESCRIBED.—The final rule referred*  
8           *to in subsection (a) is the final rule issued by the Food*  
9           *and Drug Administration and published in the Federal*  
10          *Register on September 13, 1993 (58 Fed. Reg. 47962), in*  
11          *which the Administration stayed 1987 amendments to the*  
12          *selenium food additive regulations, and any modification*  
13          *of such rule issued after the date of the enactment of this*  
14          *Act.*

Attest:

*Clerk.*



103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1970**

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**AMENDMENT**